



Ledwith, Cara L.

From: Wilkie Nathaniel [Nathaniel.Wilkie@rqih.com]
Sent: Monday, February 07, 2011 9:20 AM
To: Hill, Steven F.
Subject: Transport Insurance Company/ Kaiser Cement Corporation, et al./ Lower Duwamish Waterway/ Transport Claim No.: LT2382348
Attachments: 20110207120416052.pdf



2011020712041605
 2.pdf (1 MB)

Dear Mr. Hill, Esq.:

Please review the attached documentation regarding the above captioned matter. If you have any questions please feel free to contact me, thank you.

Nathaniel Wilkie
 Account Manager
 Insurance Services Division
 Randall & Quilter Investment Holdings plc
 1 Davol Square, Suite 112
 Providence, Rhode Island 02903
 Direct Dial 401.427.7308 Fax 401.278.4133 Email:nathaniel.wilkie@rqih.com
 Web: www.rqih.com

-----Original Message-----

From: adminscan@rqih.com [mailto:adminscan@rqih.com]
Sent: Monday, February 07, 2011 12:04 PM
To: Wilkie Nathaniel
Subject:

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Queries to: adminscan@rqih.com

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Transport Insurance Company

February 7, 2011

Via Electronic Mail: (steve.hill@millernash.com)

Steven F. Hill, Esq.
Mill Nash LLP
500 East Broadway
Suite 400
Vancouver, WA 98660-3324

Policyholder: Kaiser Cement Corporation, et al.
Insured: Kaiser Gypsum Company, Inc.
Insurance Company: Transport Indemnity Company
Transport Policy No.: See chart below
Site: Lower Duwamish Waterway ("LDW") Superfund Site, Seattle,
Washington.
Claim Type: Hazardous Waste
Transport Claim No.: LT2382348

Dear Mr. Hill, Esq.:

Be advised that as of January 1, 2010, Transport Insurance Company has relocated to Providence, Rhode Island. All future correspondence should be directed to my attention using the contact information below:

Nathaniel Wilkie
R & Q USA, Inc.
On behalf of Transport Insurance Company
One Davol Square, Suite 112
Providence, RI 02903
T: 401.427.7308
F: 401.278.4133
Nathaniel.Wilkie@rqih.com

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KG2005880

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This correspondence will acknowledge receipt of Miller Nash's December 21 and 22, 2010 correspondences directed to Great American Insurance Company, wherein Miller Nash seeks to place Transport Insurance Company on notice of the above captioned matter. Please be advised that Transport Insurance Company ("Transport") was a subsidiary of Great American Insurance Company ("GAIC") until being sold to Randall and Quilter Investment Holdings Limited in December 2004. GAIC is no longer responsible for handling matters on behalf of Transport. Transport Insurance Company is administering this matter on behalf of Transport Indemnity Company and Transport Insurance Company.

At this time, Transport has determined that it has no duty to defend or indemnify Kaiser Cement Corporation and Kaiser Gypsum Company, Inc. ("Kaiser Cement") under the excess policy issued to Kaiser Cement by Transport until such time as the applicable limits of all applicable underlying/primary policies of insurance issued to Kaiser Cement have been exhausted and then only to the extent that coverage is applicable.

From Miller Nash's December 21 and 22, 2010 correspondences the United States Environmental Protection Agency ("EPA") have named Kaiser Cement as potentially responsible party for the release or substantial threat of release of hazardous substances, the above captioned site. Kaiser Cement owned and operated cement operations at two separate locations along the LDW, at 5906 West Marginal Way S.W. (the "Westside Property"), from approximately 1965 up to 1987 and 5975 East Marginal Way S. (the "Eastside Property") from approximately 1944 up to 1985, in Seattle Washington.

The following policy was issued to Kaiser Cement:

| Transport Indemnity Company | | | | |
|-----------------------------|---------------------|-----------------|-----------------------------------|---------------|
| Policy No. | Effective Dates | Policy Type | Named Insured | Limits |
| TEL 900378 | 5/1/1984 – 4/1/1985 | Excess Umbrella | Kaiser Cement Corporation, et al. | \$5M xs \$25M |

Transport policy TEL 900378 contains the foregoing, or similar language which follow the terms conditions and extensions of the underlying policy. Such terms or terminology may, based upon facts that have yet to be made known or provided to Transport, preclude certain loss or losses from receiving coverage under this policy. While certain terms or provisions cited below may be more applicable to the captioned matters than others, Transport's inclusion of the foregoing is done without waiver that a breach of any such provisions may either preclude, or limit coverage.

INSURING AGREEMENTS

KG2005881

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1. COVERAGE

The company hereby agrees, subject to the limitations, terms and conditions hereinafter mentioned, to indemnify the insured for all sums which the insured shall be obligated to pay by reason of the liability

(a) Imposed upon the insured by law;

or

(b) assumed under contract or agreement by the named insured and/or any officer, director, stockholder, partner or employee of the named insured, while acting in his capacity as such,

for damages, direct or consequential and expenses on account of:

(i) Personal Injuries, including death at any time resulting therefrom;

Property Damage;

Caused by or arising out of each occurrence happening anywhere in the world, and arising out of the hazards covered by and as defined in the Underlying Umbrella Policies state in Item 2 of the Declarations, (hereinafter called the "Underlying Umbrella Insurers").

2. LIMIT OF LIABILITY – UNDERLYING LIMITS

It is expressly agreed that liability shall attaché to the Company only after the Underlying Umbrella Insurers have paid or have been held liable to pay the full amount of their respective Ultimate Net Loss Liability as follows:

- \$25M (as stated in Item 3 of the Declaration) Ultimate Net Loss in respect of each occurrence, but
- \$25M (as stated in Item 4 of the Declaration) in the aggregate for each annual period during the currency of this policy separately in respect of Products Liability and separately in respect of Personal Injury (fatal or non-fatal) by Occupational disease sustained by any employees of the insured.

and the Company shall then be held liable to pay only the excess thereof up to a further

KG2005882



- \$5M (as stated in Item 5 of the Declaration) Ultimate Net Loss in respect of each occurrence –subject of the limit
- \$5M (as stated in Item 6 of the Declaration) in the aggregate for each annual period during the currency of this policy, separately in respect of Products Liability and separately in respect of Personal injury (fatal or non-fatal) by Occupational Disease sustained by any employees of the insured.

CONDITIONS

1. PRIOR INSURANCE AND NON-CUMULATION OF LIABILITY

It is agreed that if any loss covered hereunder is also covered in whole or in part under any other Excess Policy issue do the insured prior to the inception dated hereof the limit of liability hereon as state in Items 5 and 6 of the Declarations shall be reduced by any amounts due to the insured on account of such loss under such prior insurance.

Subject to the foregoing paragraph and to all the other terms and conditions of this insurance in the event that personal injury or property damage arising out of an occurrence covered hereunder is continuing at the time of termination of this policy, the Company will continue to protect the insured for liability in respect of such personal injury or property damage without payment of additional premium.

2. MAINTENANCE OF UNDERLYING UMBRELLA INSURANCE

This policy is subject to the same terms, definitions, exclusions and conditions (except as regards the premium, the amount and limits of liability and except as otherwise provided herein) as are contained in or as may be added to the Underlying Umbrella Policies stated in Item 2 of the Declaration prior to the happening of an occurrence for which claim is made hereunder.

It is a condition of this policy that the Underlying Umbrella Policies shall be maintained in full effect during the currency hereof except for any reduction of the aggregate limits contained therein solely by payment of claims in respect of accidents and/or occurrences occurring during the period of this policy.

4. NOTICE OF OCCURRENCE

Whenever the insured has information from which they may reasonably conclude that an occurrence covered hereunder involves injuries or damages which, in the event that the insured shall be held liable, is likely to involve this policy, notice shall be sent as stated in Item 7 of the

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Declaration as soon as practicable provided however, that failure to give notice of any occurrence which at the time of its happening did not appear to involve this policy, but which, at a later date, would appear to give rise to claims hereunder, shall not prejudice such claims.

5. OTHER INSURANCE

If other valid and collectible insurance with any other insurer is available to the insured covering a loss also covered by this policy, other than insurance that is in excess of the insurance afforded by this policy, the insurance afforded by this policy, shall be in excess of and shall not contribute with such other insurance.

This correspondence is not intended, nor shall it be construed as an exhaustive listing of policy terms, conditions or exclusions, which might apply to this matter, as it has or may continue to develop. Transport may supplement the foregoing reservation of rights to include any additional potential bases for reservation or denial that may subsequently be identified.

Since our decision on coverage is based solely on the facts presently known to us, Transport reserves the right to supplement the foregoing statement of its coverage position in the event that additional information is made available to Transport concerning facts and circumstances giving rise to this matter. Accordingly, the foregoing is not intended, nor shall be construed, as a waiver or relinquishment of any other coverage defenses that may prove applicable.

This letter should not be construed to change, waive or modify any of the terms, conditions or provisions of policy TEL 900378. This acknowledgement of this matter and any further actions taken in regard to this matter are undertaken subject to complete reservation of rights under the terms, conditions, provisions of policy TEL 900378 and in law and equity. No action taken shall constitute an admission of liability of coverage under policy TEL 900378, and should not be construed as a waiver of any right or as an estoppel from asserting any right to disclaim or limit coverage under policy TEL 900378.

Should you have any questions concerning this correspondence or wish to discuss it further, please don't hesitate to contact me.

Very truly yours,

Nathaniel Wilkle,
Account Manager